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institution shall, prior to each payment date indicated in paragraph (b)(2) of this section, ensure that funds in an amount at least equal to the amount on the quarterly certified statement invoice are available in the designated account for direct debit by the Corporation. Failure to take any such action or to provide such funding of the account shall be deemed to constitute nonpayment of the assessment. Penalties for failure to timely pay assessments are provided for at 12 CFR 308.132(c)(3)(v).

(d) *Business days.* If a payment date specified in paragraph (b)(2) falls on a date that is not a business day, the applicable date shall be the previous business day.

(e) *Payment adjustments in succeeding quarters.* Quarterly certified statement invoices provided by the Corporation may reflect adjustments, initiated by the Corporation or an institution, resulting from such factors as amendments to prior quarterly reports of condition, retroactive revision of the institution's assessment risk assignment, and revision of the Corporation's assessment computations for prior quarters.

(f) *Request for revision of computation of quarterly assessment payment—(1) In general.* An institution may submit a written request for revision of the computation of the institution's quarterly assessment payment as shown on the quarterly certified statement invoice in the following circumstances:

(i) The institution disagrees with the computation of the assessment base as stated on the quarterly certified statement invoice;

(ii) The institution determines that the rate applied by the Corporation is inconsistent with the assessment risk assignment(s) provided to the institution in writing by the Corporation for the assessment period for which the payment is due; or

(iii) The institution believes that the quarterly certified statement invoice does not fully or accurately reflect adjustments provided for in paragraph (e) of this section.

(2) *Inapplicability.* This paragraph (f) is not applicable to requests for review of an institution's assessment risk as-

signment, which are covered by § 327.4(c) of this part.

(3) *Requirements.* Any such request for revision must be submitted within 90 days from the date the computation being challenged appears on the institution's quarterly certified statement invoice. The request for revision shall be submitted to the Manager of the Assessments Section and shall provide documentation sufficient to support the change sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for revision will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the DOF Director (or designee) shall promptly notify the institution in writing of his or her determination of whether revision is warranted. If the institution requesting revision disagrees with that determination, it may appeal to the FDIC's Assessment Appeals Committee. Notice of the procedures applicable to appeals will be included with the written determination.

(g) *Quarterly certified statement invoice unavailable.* Any institution whose quarterly certified statement invoice is unavailable on FDICconnect by the fifteenth day of the month in which the payment is due shall promptly notify the Corporation. Failure to provide prompt notice to the Corporation shall not affect the institution's obligation to make full and timely assessment payment. Unless otherwise directed by the Corporation, the institution shall preliminarily pay the amount shown on its quarterly certified statement invoice for the preceding assessment period, subject to subsequent correction.

[54 FR 51374, Dec. 15, 1989, as amended at 74 FR 9550, Mar. 4, 2009]

§ 327.4 Assessment rates.

(a) *Assessment risk assignment.* For the purpose of determining the annual assessment rate for insured depository institutions under § 327.9, each insured depository institution will be provided an assessment risk assignment. Notice of an institution's current assessment

risk assignment will be provided to the institution with each quarterly certified statement invoice. Adjusted assessment risk assignments for prior periods may also be provided by the Corporation. Notice of the procedures applicable to reviews will be included with the notice of assessment risk assignment provided pursuant to paragraph (a) of this section.

(b) *Payment of assessment at rate assigned.* Institutions shall make timely payment of assessments based on the assessment risk assignment in the notice provided to the institution pursuant to paragraph (a) of this section. Timely payment is required notwithstanding any request for review filed pursuant to paragraph (c) of this section. Assessment risk assignments remain in effect for future assessment periods until changed. If the risk assignment in the notice is subsequently changed, any excess assessment paid by the institution will be credited by the Corporation, with interest, and any additional assessment owed shall be paid by the institution, with interest, in the next assessment payment after such subsequent assignment or change. Interest payable under this paragraph shall be determined in accordance with § 327.7.

(c) *Requests for review.* An institution that believes any assessment risk assignment provided by the Corporation pursuant to paragraph (a) of this section is incorrect and seeks to change it must submit a written request for review of that risk assignment. An institution cannot request review through this process of the CAMELS ratings assigned by its primary federal regulator; each federal regulator has established procedures for that purpose. An institution may also request review of a determination by the FDIC to assess the institution as a large or a small institution (12 CFR 327.9(d)(6)) or a determination by the FDIC that the institution is a new institution (12 CFR 327.9(d)(7)). Any request for review must be submitted within 90 days from the date the assessment risk assignment being challenged pursuant to paragraph (a) of this section appears on the institution's quarterly certified statement invoice. The request shall be submitted to the Corporation's Direc-

tor of the Division of Insurance and Research in Washington, DC, and shall include documentation sufficient to support the change sought by the institution. If additional information is requested by the Corporation, such information shall be provided by the institution within 21 days of the date of the request for additional information. Any institution submitting a timely request for review will receive written notice from the Corporation regarding the outcome of its request. Upon completion of a review, the Director of the Division of Insurance and Research (or designee) or the Director of the Division of Supervision and Consumer Protection (or designee), as appropriate, shall promptly notify the institution in writing of his or her determination of whether a change is warranted. If the institution requesting review disagrees with that determination, it may appeal to the FDIC's Assessment Appeals Committee. Notice of the procedures applicable to appeals will be included with the written determination.

(d) *Disclosure restrictions.* The portion of an assessment risk assignment provided to an institution by the Corporation pursuant to paragraph (a) of this section that reflects any supervisory evaluation or confidential information is deemed to be exempt information within the scope of § 309.5(g)(8) of this chapter and, accordingly, is governed by the disclosure restrictions set out at § 309.6 of this chapter.

(e) *Limited use of assessment risk assignment.* Any assessment risk assignment provided to a depository institution under this part 327 is for purposes of implementing and operating the FDIC's risk-based assessment system. Unless permitted by the Corporation or otherwise required by law, no institution may state in any advertisement or promotional material, or in any other public place or manner, the assessment risk assignment provided to it pursuant to this part.

(f) *Effective date for changes to risk assignment.* (1) Changes to an insured institution's risk assignment resulting from a supervisory ratings change become effective as of the date of written notification to the institution by its primary federal regulator or state authority of its supervisory rating (even

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when the CAMELS component ratings have not been disclosed to the institution), if the FDIC, after taking into account other information that could affect the rating, agrees with the rating. If the FDIC does not agree, changes to an insured institution's risk assignment become effective as of the date that the FDIC determines that a change in the supervisory rating is warranted.

(2) Changes to an insured institution's risk assignment resulting from a change in a long-term debt issuer rating become effective as of the date the change is announced by the rating agency.

(g) *Designated reserve ratio.* The designated reserve ratio for the Deposit Insurance Fund is 1.25 percent.

[71 FR 69277, 69326, Nov. 30, 2006]

§ 327.5 Assessment base.

(a) *Quarter-end balances and average daily balances.* An insured depository institution shall determine its assessment base using quarter-end balances until changes in the quarterly report of condition allow it to report average daily deposit balances on the quarterly report of condition, after which—

(1) An institution that becomes newly insured after the first report of condition allowing for average daily balances shall have its assessment base determined using average daily balances;

(2) An insured depository institution (other than one covered in paragraph (a)(1) of this section) reporting assets of \$1 billion or more on the first report of condition allowing for average daily balances, shall within one year after so reporting have its assessment base determined using average daily balances;

(3) An insured depository institution (other than one covered in paragraph (a)(1) of this section) that was insured prior to the first report of condition allowing for average daily balances, reporting less than \$1 billion in assets on the first report of condition allowing for average daily balances—

(i) May continue to have its assessment base determined using quarter end balances; or

(ii) May opt permanently to have its assessment base determined using av-

erage daily balances after notice to the Corporation, but

(iii) Shall have its assessment rate determined using average daily balances for any quarter beginning six months after the institution reported that its assets equaled or exceeded \$1 billion for two consecutive quarters and thereafter; and

(4) In any event, an insured depository institution that files its report of condition on a consolidated basis by including a subsidiary bank(s) or savings association(s) shall report its assessment base on an unconsolidated basis.

(b) *Computation of assessment base.* Whether computed on a quarter-end balance or an average daily balance, the assessment base for any insured institution that is required to file a quarterly report of condition shall be computed by:

(1) Adding all deposit liabilities as defined in section 3(l) of the Federal Deposit Insurance Act, to include deposits that are held in any insured branches of the institution that are located in the territories and possessions of the United States, but does not include unposted credits and is not reduced by unposted debits; and

(2) Subtracting the following allowable exclusions, in the case of any institution that maintains such records as will readily permit verification of the correctness of its assessment base—

(i) Any demand deposit balance due from or cash item in the process of collection due from any depository institution (not including a private depository institution, a foreign depository institution, a foreign office of another U.S. depository institution, or a U.S. branch of a foreign depository institution) up to the total of the amount of deposit balances due to and cash items in the process of collection due to such depository institution that are included in paragraph (b)(1) of this section;

(ii) Any outstanding drafts (including advices and authorization to charge deposit institution's balance in another bank) drawn in the regular course of business;

(iii) Any pass-through reserve balances;